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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/303,464	04/30/1999	STEVEN J. SISTARE	P3949	8397
7590	10/05/2004		EXAMINER	
B. NOEL KIVLIN CONLEY, ROSE & TAYON, P.C. P.O. BOX 398 AUSTIN, TX 78767			HO, THE T	
			ART UNIT	PAPER NUMBER
			2126	

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No.	Applicant(s)	
	09/303,464	SISTARE ET AL.	
	Examiner	Art Unit	
	The Thanh Ho	2126	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 14 June 2004.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-15 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment filed 6/14/2004.
2. Claims 1-15 have been examined and are pending in the application.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent Inakoshi not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-2, 6-7 and 11-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inakoshi U.S Patent No. 5,933,604.

As to claim 1, Inakoshi teaches a system comprising at least one process (the monitor request process from a user, lines 26-28 column 4) and a spin daemon (the combination of units 1-4 of the monitor system, Fig. 1), the process (the monitor request process from a user, lines 26-28 column 4) transmit a flag monitor request (monitor the state of the resource request from the user, lines 26-28 column 4) to the spin daemon (the combination of units 1-4 of the monitor system, Fig. 1); the spin daemon (the combination of units 1-4 of the monitor system, Fig. 1) receiving (receiving the monitoring request from the user to unit 4, Fig. 1) the flag monitor request (monitor the state of the resource request from the user, lines 26-28 column 4) monitor the flag (monitors the state, line 26 column 4) and, after the flag changes condition (indicates a

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change in the state of the resource, line 30 column 4; the source has been updated, line 40 column 4), enable the process to be scheduled for execution by the computer (updated information such as image or text being transferring to the user, lines 31-37 column 4). Inakoshi does not explicitly teaches a process de-schedule itself. However, Inakoshi teaches by sending the monitor request to a monitor system, the user does not have to access the resource by itself, the change in the state of the resource will be automatically noticed to the user by the monitor system (lines 26-35 column 5). Therefore one of ordinary skill in the art would conclude that in this case, the process from the user has been de-schedule itself from accessing the resource by itself, therefore reducing the times of active accessing to minimum.

As to claim 2, Inakoshi as modified further teaches the spin daemon (the combination of units 1-4 of the monitor system, Fig. 1) monitors a plurality of flags (multiple resources 50s, line 37 column 9, Fig. 8), each in response to a flag monitor request (requests from users, line 7 column 2), the spin daemon (the combination of units 1-4 of the monitor system, Fig. 1) maintaining a list identifying those flags it is to monitor (a database contains resources Ids and clients' monitoring requests as notification destinations, lines 59-62 column 2), the spin daemon (the combination of units 1-4 of the monitor system, Fig. 1) receives (receiving the monitoring request from the user to unit 4, Fig. 1) a flag monitor request (monitor the state of the resource request from the user, lines 26-28 column 4) and add an identification of a flag associated with the request to the list (stores resource identification information and notification destinations, lines 59-62 column 2).

As to claims 6-7, they are method claims of claims 1-2, respectively. Therefore, they are rejected for the same reasons as claims 1-2 above.

As to claims 11-12, they are computer program product claims of claims 1-2, respectively. Therefore, they are rejected for the same reasons as claims 1-2 above.

4. Claims 3-4, 8-9 and 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inakoshi in view of Conger (Windows API Bible, 1992 publication).

As to claim 3, Inakoshi as modified does not explicitly teach flags contained in a memory segment. Conger teaches memory segment ("segment", page 612 line 10; and the uses of memory segment on pages 612-614). It would have been obvious to apply the teachings of Conger to the system of Inakoshi because this provides the flags of Inakoshi are contained in a memory segment, therefore the memory holding the flags can be deallocated when that process is finished. As the result, the system of Inakoshi will work more efficiently.

As to claim 4, the spin daemon of Inakoshi is not being configured to provide a handle or use of memory segment. The memory segment of Inakoshi as modified by Conger provides an identifier for the memory segment (a far address or NEAR addresses, page 612 lines 17-30). As to the handle, Conger further teaches the use of a handle (HWND hWnd, pages 9 lines 39-56 and page 10 lines 1-17). When a process makes a request, it would have been obvious to provide a handle in Inakoshi's process (a spin daemon) so that the handle can be used to perform the flag monitor request by any other processes of Inakoshi's system, and the handles in Conger can trace different types of system resources (Conger, page 9 lines 20-23).

As to claims 8-9, they are method claims of claims 3-4, respectively. Therefore, they are rejected for the same reasons as claims 3-4 above.

As to claims 13-14, they are computer program product claims of claims 3-4, respectively. Therefore, they are rejected for the same reasons as claims 3-4 above.

5. Claims 5, 10 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Inakoshi in view of Arthur Dumas (Programming WinSock, 1995 publication).

As to claim 5, Inakoshi does not explicitly teach the spin daemon is configured to communicate over a socket. Arthur teaches WinSock (WINSOCK32.DLL, Fig. 3.1 page 45) as a communication mechanism between processes. It would have been obvious to apply the teachings of Arthur to the system of Inakoshi because this provides a feature in form of upgradeable DLL library for future improvement.

As to claim 10, it is a method claim of claim 5. Therefore, it is rejected for the same reason as claim 5 above.

As to claim 15, it is a computer program product claim of claim 5. Therefore, it is rejected for the same reason as claim 5 above.

Response to Arguments

6. Applicant's arguments filed have been fully considered but they are not persuasive.

Applicant argued that Inakoshi's user is different from the process as claimed (Remarks, fourth complete paragraph page 8). In response, while the user initializes the request, the management unit 4 is the actual unit that sends the monitoring request (Fig. 1). Management unit 4 is a software component running within the network resource monitoring system. The reference meets the limitation as claimed.

Applicant argued that Inakoshi does not teach the process descheduling itself (Remarks, fifth complete paragraph page 8). In response, as clearly mentioned in the claim rejection above, Inakoshi does not explicitly teach a process de-schedule itself. However, Inakoshi teaches by sending the monitor request to a monitor system, the user does not have to access the resource by itself, the change in the state of the resource will be automatically noticed to the user by the monitor system (lines 26-35 column 5). Therefore one of ordinary skill in the art would conclude that in this case, the process from the user has been de-schedule itself from accessing the resource by itself, therefore reducing the times of active accessing to minimum. The reference meets the limitation as claimed.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to The Thanh Ho whose telephone number is (571) 272-3762. A voice mail service is also available for this number. The examiner can normally be reached on Monday – Friday, 8:30 am – 5:00 pm.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Any response to this action should be mailed to:

Commissioner for Patents

P.O Box 1450

Alexandria, VA 22313-1450

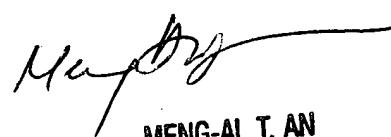
Or fax to:

- AFTER-FINAL faxes must be signed and sent to (703) 872 - 9306.
- OFFICIAL faxes must be signed and sent to (703) 872 - 9306.
- NON OFFICIAL faxes should not be signed, please send to (571) 273 – 3762

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TTH
September 28, 2004


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SUPERVISORY PATENT EXAMINER
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